

TO: Chairman Shirkey and Health Policy Committee Members
DATE: October 5, 2015
SUBJECT: Senate Bill 338

Thank you for the opportunity to comment today on Senate Bill 338.

I am Kay Peruski, administrator at Courtney Manor in Bad Axe. Courtney Manor is an award winning Ciena owned facility. Ciena Health Care owns and operates 36 facilities throughout Michigan. I have been the administrator at Courtney Manor for more than 27 years.

I am also speaking on behalf of the Health Care Association of Michigan. HCAM is a statewide trade association representing for and not-for-profit, county medical care and hospital-based nursing and rehabilitation facilities.

Senate Bill 338 would mandate nursing facilities and homes for the aged have a private examination room to be used exclusively for the purpose of medical or dental examination and treatment.

We are unaware that a significant problem exists justify mandating all nursing facilities have a dedicated room. As introduced, we have substantial concerns with Senate Bill 338.

It is important to note nursing facilities are regulated by both federal and state governments. The Centers for Medicare and Medicaid Services (CMS) is the federal governing agency that ensures compliance with more than 1,000 regulations dealing with facility environment, resident rights, quality of life and quality of care. The Michigan Department of Licensing and Regulatory Affairs (LARA) carries out compliance on the state level. LARA conducts an unannounced, onsite, comprehensive monitoring visit of all facilities in the state each year, and it investigates all complaints related to nursing facility care.

There is no federal regulatory expectation that this type of room is necessary to meet care needs. Nor is there any indication from physicians, residents or family members for the need of such a room.

Specifically, most facilities do not have the space available to facilitate this regulation without converting or giving up space already used for a different purpose such as an activity room, family conference room or chapel. Simply put, facilities, particularly older ones, do not have empty, unused space. Other options would be to build on or permanently give beds back to the Certificate of Need to convert a resident's room to an exam room. Neither option is realistic or desirable.

There would be significant costs to comply with this new regulation. It is unclear how facilities would pay for the cost of converting and/or building and furnishing a dedicated room, particularly if beds have to be given up.

Further, Medicaid will not reimburse facilities for an exam room used exclusively by a dentist or doctor. Currently, nursing facilities are reimbursed only for patient care that is provided by them under their licensure and certification. A physician's office is considered a non-reimbursable area in a nursing facility because the physician will bill and receive payment directly for the services they provide. Nursing facilities would only be able to receive payment for this space through a lease arrangement with the physician to pay for the use of this space.

Aside from the financial and logistical concerns, it is our sense that a dedicated exam room would go largely unused. In fact, some facilities currently have a room for this purpose that is occasionally or almost never used. Additionally, through the years several other facilities had a dedicated room and converted it to another purpose because it was so infrequently used and failed to show any direct benefit to the resident.

When dental or podiatric procedures take place at facilities, administrators and staff work with physicians to meet their needs and that of the resident, as it would in a hospital setting. Residents often prefer the privacy and convenience of staying in their own room.

On occasion, salons are used for dental work. The salons are clean and the chair is ideal for examinations. Facilities are regulated to provide sanitary conditions and are surveyed to ensure compliance. Infection control must be maintained throughout the facility at all times and through all treatment procedures. It is unwarranted to suggest facilities are any less sanitary than a doctor or dental office or even a persons' home.

Respecting the privacy and dignity of residents is of the utmost importance as well. In fact, failure to do so can result in the facility receiving a citation. If, on occasion, a resident would like more privacy it is incumbent upon the facility to accommodate their needs. This can be achieved best by allowing flexibility in the use of space at facilities.

It should be noted that, technology has advanced as well. There are now software applications that allow facilities to conveniently and flexibly have a virtual consultation/examination between a doctor and their patient. Providers are focusing resources and moving toward offering this type of service.

In closing, we question the need for this unfunded new mandate. Facilities are effectively meeting the needs of residents when these types of services are required. It is a solution in search of a problem. Ultimately, many facilities would be unable to meet this requirement without considerable expense and difficulty.

Thank you. I would be glad to answer any questions.